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Ax will soon fall on Trump transparency rule

Kelsey Brugger, E&E News

https://www.eenews.net/greenwire/2021/05/21/stories/1063733237?utm_campaign=edition&utm_medium=email&utm_source=eenews%3Agreenwire

The Biden administration is formally killing a Trump regulation that would have limited the science EPA could use to craft future environmental and public health protections.

A regulation to vacate what has long been referred to as the "secret science" rule cleared the White House regulatory review shop yesterday. EPA is expected to finalize the vacatur rule any day now, though the agency did not respond this morning to a request for comment on timing.

The action is a perfunctory step, as a federal judge earlier this year tossed the rule on the grounds that the Trump EPA failed to follow proper rulemaking protocols (Greenwire, Feb. 1).

But for critics, the impending final action illustrates the end of one of the Trump administration's most controversial environmental efforts.

"The 'censoring science' rule was ill-advised and illegal," said Paul Billings, a vice president at the American Lung Association. "The EPA vacating this rule and putting an end to this effort to cherry-pick scientific studies and undermine the health benefits for curbing air pollution should be thrown on the scrap heap of terrible Trump-era regulations."

The rule — formally called "Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information" — heeded longtime conservative calls to root out "secret science" from public health and environmental rulemakings.

The final version would have ordered EPA to downplay nonpublic scientific studies and prioritize research that discloses the health impact of a measured amount of a pollutant. It was a tactic, critics pointed out, used by the tobacco industry in the 1990s.

Ewire: Regan seeks to eliminate EPA's FOIA backlog

N/A, Inside EPA

<https://insideepa.com/daily-feed/ewire-regan-seeks-eliminate-epa-s-foia-backlog>

EPA Administrator Michael Regan is urging agency staff to proactively provide the public with information likely to be requested under the Freedom of Information Act (FOIA) and to offer innovative ideas to improve FOIA processing in order to eliminate a backlog of overdue information requests.

The call for improved transparency came in a May 19 email from Regan to all EPA staff where the administrator says, "Promoting transparency, information disclosure, and cooperation through FOIA implementation will help us achieve the agency's mission to protect human health and the environment and to achieve our ambitious goals." Regan's message was first reported by E&E News.

EPA's mission requires public trust and accountability, and implementing FOIA will promote transparency and build public trust in agency actions, the email says. "I therefore reaffirm EPA's commitment to FOIA implementation as a critical tool to promote transparency as we take on the climate crisis, advance environmental justice, restore the role of science, protect public health, and rebuild stronger than before."

Regan encourages “all staff and agency FOIA professionals to continue to offer innovative ideas to improve FOIA processing. The agency has a backlog of overdue FOIAs, and we are committed to reduce and eliminate that backlog and to improve and increase our communication with FOIA requesters and the public.”

The email says EPA will work to ensure its FOIA professionals have the support needed to meet FOIA’s requirements in a timely and efficient a manner, including by providing training for all agency staff, supervisors and FOIA professionals, adding that EPA is committed to being a flagship example of transparent, efficient, and effective government.

EPA offices and programs should strive, when possible, to proactively provide the public with access to information that is likely to be requested under FOIA to better assist the public to participate and engage with the agency, Regan says, encouraging offices to identify information useful to the public and consider the best ways to make that information accessible on the agency’s website without waiting for a request from the public to do so.

All agency personnel should ensure that FOIA’s presumption of openness is applied when responding to a FOIA request, with managers giving their staff and the agency’s FOIA professionals the support needed to satisfy FOIA’s transparency requirement in as timely and efficient a manner as possible, the email says.

Chemical Safety Board Faces House Probe on Investigation Backlog

Fatima Hussein, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/chemical-safety-board-faces-house-probe-on-investigation-backlog?usertype=External&bwid=00000179-8f1d-d419-a379-af3f2f7e0001&qid=7112818&cti=FGOV&uc=1320000080&et=NEWSLETTER&emc=neve_nl%3A10&source=newsletter&item=headline*ion=digest&access-ticket=eyJjdHh0IjoikVWRSIsImklkjoMDAwMDAxNzktOGYxZC1kNDE5LWEzNzktYWYyZjlmN2UwMDAxliwic2lnIjoiaXVwbE1VkvOQ3U0YUJsUEEx3ZHdsWUHNudNPSIsInRpbWUiOiIxNjlxODU0ODM1IiwidXVpZCI6Ik5JZmpBVDFCaW5wU2RWZUZ4Z3ZHMmc9PWWhiUDc4UTBzWDZzTkpFdjFwVitQNWc9PSIsInYiOiIxIn0%3D

A bipartisan group of lawmakers is asking the U.S. Chemical Safety and Hazard Investigation Board for information regarding the agency’s ongoing management, resource, and personnel challenges, which have resulted in a growing backlog of probes into chemical accidents.

“We are concerned that some of these challenges continue to plague the CSB, and also that new issues have emerged,” six members of the House Committee on Energy and Commerce said in a letter sent Thursday to agency chairwoman Katherine Lemos. “For example, the CSB has had perennial, and apparently ongoing, difficulties in hiring qualified chemical safety investigators.”

The agency is currently overseeing 20 chemical release investigations, including the deadly nitrogen leak at a Gainesville, Ga., poultry plant on Jan. 28. The Gainesville probe gave rise to concern the agency was working in conjunction with immigration enforcement authorities, which some say would have a chilling effect on testimony from undocumented workers during investigations.

Hillary Cohen, a spokesperson for the CSB, told Bloomberg Law in an emailed statement, “We received this letter yesterday and will be responding to the Energy and Commerce Committee staff in a timely fashion.”

The five-member board currently operates as what Lemos, the Trump-appointed holdover chair, has characterized as a quorum of one, with depleted staffing and a backlog of open investigations.

The lawmakers say they “remain concerned about ongoing challenges impacting the agency’s ability to mitigate the risks of future chemical accidents.”

Energy and Commerce Committee Chairman Frank Pallone Jr. (D-N.J.), and members Cathy McMorris Rodgers (R-Wash.), Diana DeGette (D-Colo.), Morgan Griffith (R-Va.), Paul Tonko (D-N.Y.), and David McKinley (R-W. Va.) co-signed the Thursday letter.

'Elevated Urgency'

Lemos began her term on April 23, 2020. The board was left with one member after interim head Kristen Kulinowski resigned on May 1.

The ramifications of that loss were outlined in a July Environmental Protection Agency Office of Inspector General report, which called for an "elevated urgency" for the nomination of new members to lead the CSB. The EPA's Office of Inspector General also acts as the CSB's inspector general.

The leadership panel of the independent, non-regulatory board is nominated by the president and confirmed by the U.S. Senate.

On April 14, the presidents of the United Steelworkers labor union and the American Fuel & Petrochemical Manufacturers called on the Biden administration to fill the four empty seats on the board. Two weeks later, the Biden administration nominated Sylvia Johnson, Jennifer Sass, and Steve Owens to serve on the agency's board.

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PFAS pervade breast milk

Jessica Marshall, Chemical & Engineering News

<https://cen.acs.org/environment/persistent-pollutants/PFAS-pervade-breast-milk/99/i19>

Researchers analyzed the breast milk of 50 first-time mothers in the Seattle area, searching for the presence of 39 per- and polyfluoroalkyl substances (PFAS), and detected the compounds in every sample (Env. Sci. Technol. 2021, DOI: 10.1021/acs.est.0c06978). The study marks the first report of PFAS levels in breast milk in the US in 15 years and measures more of the substances with lower detection limits than previous work, the authors say. PFAS are part of nonstick coatings, food packaging, and firefighting foam. Some have been implicated in health problems including suppressed immune function and some types of cancers. The "legacy" PFAS perfluorooctanesulfonic acid and perfluorooctanoic acid have been phased out because of health concerns, including accumulation in the body, and replaced in many applications by shorter-chain versions, such as perfluorohexanoic acid (shown). "The idea before was that new PFAS don't accumulate" because of their smaller size, study author and environmental chemist Amina Salamova of Indiana University says. But the new study detected legacy and new PFAS at comparable levels in the breast milk samples. "We now have evidence, based on this study, that some of the current-use PFAS can also accumulate in breast milk, similar to legacy PFAS," she says. The researchers don't know what effects this PFAS exposure could have on infants, but effects are possible "because we know that everyday levels in adults can lead to health effects," particularly on immune function, Salamova says.

US EPA denies TSCA petition for phosphogypsum testing

Julia John, Chemical Watch

<https://chemicalwatch.com/270180/us-epa-denies-tsca-petition-for-phosphogypsum-testing>

The US EPA has rejected a request for a TSCA test rule on disposed phosphogypsum, signalling the agency under the Biden administration may approach TSCA citizens' petitions in a similar manner as the last administration.

On 8 February, People for Protecting Peace River, Center for Biological Diversity (the Center) and 16 other organisations submitted a TSCA section 21 petition – the first during the Biden administration – asking the EPA to issue a TSCA section 4 testing rule for phosphogypsum and process wastewater from phosphoric acid production, among other demands.

In its response – published in the Federal Register on 21 May – the agency refused the request. "The petition does not demonstrate that existing information and experience on the effects of phosphogypsum and process wastewater are insufficient", or that their testing "is necessary" to determine whether disposal poses an unreasonable risk to public health or the environment, the EPA wrote.

Herb Estreicher, a partner at Keller and Heckman, said the decision shows that the agency likely will maintain the previous administration's convention of denying TSCA citizens' petitions.

Erik Baptist, a partner with Wiley Rein, agreed that this result "demonstrates that EPA will continue to stay the course when it comes to reviewing and deciding" these petitions. "It is important to keep any petition limited in scope, within the authority of section 21 and reasonable in its request," he said. "EPA may be more likely to grant a petition that is targeted, necessary and reasonable given the limited resources of the agency."

Although it acknowledged the petitioners' environmental justice and substance volume concerns, the agency said the NGOs gave neither "evidence that they undertook efforts such as a literature search of publicly available information", nor "an inventory of information they claim is missing".

The EPA pointed to existing Toxicity Characteristic Leaching Procedure (TCLP) data for phosphogypsum and process wastewater, and to Integrated Risk Information System (IRIS) assessments and Agency for Toxic Substances and Disease Registry (ATSDR) toxicological profiles for constituent hazardous chemicals.

The groups failed to explain how further research would generate the desired health and environmental data, or what kind of studies were needed, the agency added.

Mr Baptist noted that while the agency "correctly denied" the request, this outcome "has nothing to do with whether EPA believes the chemical itself presents any unreasonable risk".

Additional requests

The petitioners can appeal within 60 days of denial by filing a civil action in a U.S. district court. Jaclyn Lopez, the Center's Florida director and senior attorney, told Chemical Watch they were evaluating next steps.

The EPA also concluded that the advocates' additional calls to prioritize phosphogypsum for TSCA risk evaluation and issue a significant new use rule (Snur) for road building applications exceed the section 21 petition's bounds. The agency said it would instead examine these demands through another federal law, the Administrative Procedures Act, which provides the EPA more time to consider them.

Phosphogypsum stacks storing the material "present ever-increasing risks to our communities and environment," according to Ms Lopez. "We're of course disappointed that the Biden administration hasn't taken action to address the harms of phosphogypsum, but we're hopeful the EPA will take action on our remaining petition asks."

'Health-harming' PFAS chemicals 'widespread' in disposable food packaging

Katy Askew, Food Navigator

<https://www.foodnavigator.com/Article/2021/05/24/Health-harming-PFAS-chemicals-widespread-in-disposable-food-packaging>

A new study has highlighted the ‘widespread’ use of ‘health-harming’ per- and polyfluoroalkyl substances (PFAS) in disposable food packaging...

EPA sends PCBs measurement rule for OMB review

Maria Hegstad, Inside TSCA

<https://insideepa.com/tsca-news/epa-eyes-annual-cdr-reporting-tri-improvements-bolster-tsca-data>

EPA’s newly crafted strategic plan for its toxics office details several policy changes aimed at gathering more information more quickly to support its TSCA risk evaluations, including new uses of Toxics Release Inventory (TRI) data and an “option” for companies to file chemical data reporting (CDR) materials annually instead of every four years.

The Office of Pollution Prevention and Toxics’ (OPPT) Data Gathering and Analysis Division (DGAD) set out those and other priorities as part of OPPT’s fiscal year 2021-23 strategic plan, an internal document first released by Inside TSCA.

In an attachment to the office-wide plan, DGAD outlines several policy goals and actions that would give EPA access to more data that it could use to prioritize chemicals for risk evaluation and inform those evaluations of existing chemicals, such as through more-frequent CDR reporting and new environmental justice (EJ) mapping based on both CDR and TRI submissions.

One such entry says DGAD plans to “[d]evelop option for annual CDR reporting for priority chemicals,” though the strategic plan does not provide additional information about the annual reporting “option,” such as a deadline for the policy or whether it would make other changes to the CDR program.

Other bullet points include completing ongoing efforts to expand TRI’s reach to include natural gas processors, medical sterilization facilities and a host of per- and polyfluoroalkyl substances (PFAS) not previously subject to the program but which Congress has ordered EPA to add.

All appear to be part of an OPPT-wide effort detailed at various points in the plan to apply “lessons learned” from the 10 existing-chemical evaluations EPA conducted under the Trump administration, and to ease the burden of evaluating future chemicals.

Annual reporting would be a significant revision to the CDR program, which currently requires facilities that produce or import chemicals above threshold quantities to submit use, exposure and other data on a four-year cycle. The most recent deadline arrived just months ago, meaning EPA is not slated to receive a new wave of CDR data until the end of President Joe Biden’s current term.

Applying the annual reporting option to “priority chemicals” would also be a change, as substances subject to CDR may not include all chemicals deemed high-priority for evaluation under TSCA -- a distinction that has already led to litigation, as environmentalists pushed to have asbestos added to the CDR list after the Trump EPA refused to do so.

CDR submissions were key to the 10 TSCA evaluations of existing chemicals completed by the Trump EPA, and for some chemicals represented the agency’s only source of industrial exposure data -- meaning expanding the program could greatly boost the information regulators have available as they craft the next wave of 20 such evaluations.

“CDR reporting is not just paperwork stuff, it’s information that EPA really uses. We certainly see that with the [TSCA] risk evaluations,” Bob Sussman, an environmental attorney and former senior EPA official, said in a May 11 interview with Inside TSCA.

Over the last several reporting cycles, EPA revised various aspects of the CDR program, such as lowering the threshold for reporting on some chemicals below the generally applicable level of 25,000 pounds per year, or carving out exclusions from the policy that exempts naturally occurring material -- such as asbestos -- from reporting.

TSCA Prioritization

While the plan is written for EPA staff familiar with OPPT's internal operations, scattered passages give some indications of what DGAD intends to do with the data, including more-intensive analysis of CDR and TRI materials, and using TRI filings for mapping disadvantaged or "fenceline" communities exposed to high levels of toxic chemicals -- a key part of the Biden administration's EJ agenda.

Goals listed in that section of the plan include "[e]nhance and complete CDR National Analysis...

The Week Ahead: EPA To Seek Remand Of HBCD Evaluation, Panels Weigh Non-Animal Testing

N/A, Inside TSCA

<https://insideepa.com/tsca/week-ahead>

EPA is due to file its formal request to remand the Trump-era TSCA evaluation of hexabromocyclododecane (HBCD) and other flame retardants this week, which could provide a new roadmap for how the agency will seek to tighten its predecessor's risk findings. The agency is participating in three online events to discuss the role of new approach methodologies (NAMs) in risk assessments and other toxicity studies.

HBCD Evaluation

May 28 is the deadline for EPA to file its request for a voluntary remand of the Toxic Substances Control Act (TSCA) HBCD evaluation, after it told the U.S. Court of Appeals for the 9th Circuit that it plans to reconsider the document. How the agency seeks to proceed with the remand will be a key signal of its agenda on TSCA evaluations more broadly, especially after it told the 9th Circuit that it intends to rework its evaluation of methylene chloride from a series of risk determinations on individual conditions of use into a "binary" finding that addresses unreasonable risk from the chemical as a whole.

Background Reading: EPA Will Seek HBCD Evaluation Remand In Early Marker For TSCA Agenda

Non-Animal Testing

EPA and People for the Ethical Treatment of Animals (PETA) will continue their series of webcasts on NAMs with a May 26 session focused on respiratory toxicity testing.

On May 27, the agency's Office of Research and Development will host a webinar on systematic review practices and tools for "the NAMs community," as part of its "Computational Toxicology and Exposure Communities of Practice" program.

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) that includes EPA will hold a public meeting on May 27 with an agenda including updates from several participating agencies, including EPA, on their research activities and progress reducing animal testing.

Background Reading: Fate Of Wheeler's 2035 Deadline To Eliminate Animal Testing Remains In Flux

Mercury Inventory

Comments are due May 24 on EPA's renewed information collection request for its TSCA inventory of companies' use, production and imports of mercury. The notice of that renewal also included the agency's first-time announcement that it plans an interim final rule that will set new requirements for companies' reporting to that inventory based on a 2020 ruling that vacated part of the 2018 rule governing the program.

Background Reading: EPA Readies Interim TSCA Mercury Reporting Rule Under Court Mandate

PFAS

The National Academy of Sciences panel tasked with crafting guidance to clinicians on testing for, and health outcomes from, per- and polyfluoroalkyl substances (PFAS) contamination will host a “virtual town hall” on May 25 to gather input from community representatives and others in the Western United States.

Background Reading: Biden Seeks Funding Boost For PFAS Research As Calls Grow For Data

State Policies

The New York Department of Environmental Conservation will host a May 26 online hearing to gather input on its development of rules mandated by the state legislature to “promulgate lists of chemicals of concern and high priority chemicals” that will be subject to disclosure requirements for children’s products starting in 2022. Several industry groups are pushing for a federal labeling law that would preempt the Empire State’s program in favor of one modeled on California’s.

Background Reading: Industry Renews Push For Federal Labeling Law Modeled On California’s

EPA Research

The executive committee of EPA’s Board of Scientific Counselors (BOSC), which advises the agency on its research agenda, will meet May 25 to review a new report from its subcommittee on chemical safety and sustainability, whose work covers TSCA among other programs. Agency officials outlined several targets for upcoming scientific work during the panel’s recent round of meetings, including using NAMs to prioritize chemicals for TSCA evaluation.

Background Reading: EPA Weighing Computational Tool To...

EPA Approves Fungicide to Fight Coffee Leaf Rust

N/A, Big Island Now

<https://bigislandnow.com/2021/05/21/epa-approves-fungicide-to-fight-coffee-leaf-rust/>

Hawai’i coffee growers now have the approval to use a specific fungicide in their efforts to manage and control the spread of coffee leaf rust (CLR).

On Thursday, May 20, the US Environmental Protection Agency (EPA) approved a request from the Hawai’i Department of Agriculture (HDOA) to use Priaxor® Xemium to battle CLR, a devastating plant pathogen. The fungicide is not currently labeled by the EPA for specific use on coffee plants, but it is allowed for use to control fungi on leafy vegetables, strawberries, tomatoes, soybeans, wheat and many other crops.

“Hawai’i coffee growers now have an added method to combat the coffee leaf rust, which is extremely difficult to manage,” said Phyllis Shimabukuro-Geiser, chairperson of the Hawai’i Board of Agriculture. “Other efforts to minimize the damage and spread of coffee leaf rust include quarantines on the movement of coffee plants and associated material, the import of disease-resistant coffee plants and the development of integrated pest management strategies.”

In March 2021, HDOA filed a request for a specific exemption with the EPA to allow the use of the fungicide on coffee plants. HDOA was notified of the approval of the emergency exemption Thursday, May 20, which allows the fungicide to be used for up to one year or until use on coffee plants is added to the product label by EPA and the product’s producer.

The EPA exemption allows coffee growers to use the fungicide under the following conditions:

Growers must inform the Pesticides Branch at least seven days prior to using the product by emailing hdoa.sec18@hawaii.gov. Personal protective equipment must be worn as required by the label. All directions on both the container label, as well as the dealer-provided Section 18 label, must be followed. All use/application must be reported to HDOA’s Pesticides Branch within 10 days of application.

Growers with questions on the proper use of the fungicide may contact Pesticides Branch staff at:

Hawai'i Island: Cal Westergard – 808-974-4143

Maui County: Mitchell MacCluer – 808-873-3078

O'ahu: Adam Yamamoto – 808-973-9409

Kaua'i: Emilee Wedekind-Balualua – 808-241-7140

In anticipation of EPA's approval, HDOA and the University of Hawai'i's College of Tropical Agriculture and Human Resources (UH-CTAHR) held two webinars for coffee growers in April on the use of Priaxor® Xemium. Two additional webinars are being planned in June.

CLR is a devastating coffee pathogen that greatly reduces the growth of the plant and berry. There are multiple long-term impacts of CLR, including dieback, resulting in an impact on the following year's crop, with estimated losses ranging from 30% to 80%.

Since the first detection of CLR in Hawai'i in October 2020, a multi-agency effort involving HDOA, UH-CTAHR, the USDA Daniel K. Inouye Pacific Basin Agricultural Research Center and the Hawai'i coffee industry has been working to protect Hawai'i's \$56 million coffee industry.

Plaintiffs Object to Roundup Settlement

Todd Neeley, DTN/Progressive Farmer

Plaintiffs Object to Roundup Settlement

LINCOLN, Neb. (DTN) -- Bayer AG's attempts to move a Roundup settlement across the finish line in a federal court met with resistance this week as attorneys representing cancer victims objected to the proposed \$2 billion glyphosate settlement on a number of fronts.

At the beginning of February, Bayer announced it had reached a \$2 billion settlement resolving outstanding legal issues related to the herbicides glyphosate and dicamba.

During a hearing before the U.S. District Court for the District of Northern California on Wednesday, attorneys for several plaintiffs involved in the class action suit objected to details of the plan and called for the court to reject it.

The court is considering a preliminary approval of the settlement.

One provision would allow Bayer to continue to sell Roundup. The settlement also would require healthy people who have already been exposed to Roundup to relinquish their right to sue if they are later diagnosed with non-Hodgkin's lymphoma.

Attorneys for the plaintiff also objected to a provision that would limit legal options for people exposed to glyphosate who later become sick.

During a hearing Wednesday, U.S. District Court Judge Vince Chhabria expressed concern about limiting future Roundup claims.

"The concept that you're covered if you're exposed prior to a certain day and not covered if you're exposed after a certain day, usually that's used if a company has decided to take a product off the market or slap a warning label on it," he said.

Groups petition EPA to consider risks to soil health

Marc Heller, E&E News

https://www.eenews.net/greenwire/2021/05/21/stories/1063733245?utm_campaign=edition&utm_medium=email&utm_source=eenews%3Agreenwire

EPA should expand its required testing of pesticides to reflect risks to soil organisms, environmental groups said in a petition to the agency.

The Center for Biological Diversity and Friends of the Earth urged the agency in a legal filing yesterday to assess dangers to soil health as a part of EPA's regular reviews of pesticides, citing recent studies suggesting the risks are greater than previously known.

"Soil health is the building block of life and healthy agricultural practices," the groups said in the petition. "To continue to overlook pesticide impacts to soil health is to rob future generations of the opportunity to grow healthy and nutritious food."

The groups, joined by 67 organizations that wrote a letter of support to EPA, asked the agency to add new soil health-related testing to pesticide reviews, including sublethal effects on earthworms, springtails and mites, as well as effects on isopods and fungi. An additional test should examine impacts on nitrogen in the soil, they said.

The petition follows a report by the Center for Biological Diversity earlier this month suggesting pesticides such as neonicotinoids and organophosphates are harmful to earthworms and other invertebrates that build healthier soils.

"These findings indicate that a wide variety of soil-dwelling invertebrates display sensitivity to pesticides of all types and support the need for pesticide regulatory agencies to account for the risks that pesticides pose to soil invertebrates and soil ecosystems," said the study, published May 4 in *Frontiers in Environmental Science*.

They also cited a finding by the Food and Agriculture Organization of the United Nations that misuse of pesticides poses a significant danger to biodiversity in the soil.

EPA already reviews soil health impacts of pesticides, including how chemicals break down in the ground and what the leftover components are, and whether they can be absorbed by plants, for instance. An industry source told E&E News that the studies are already lengthy and comprehensive and that companies welcome regulation. Farm chemicals take 10 years or longer to reach the market during the course of studies, he said.

And EPA, in its environmental risk assessments, considers the potential effect on land-based organisms including those in the soil. Regulators can ask for additional "guidance studies" as part of the review, he said.

But the Center for Biological Diversity said the assessments are too narrow, based on how the chemicals affect honeybees, which aren't often in contact with the soil.

"While it's critically important to analyze how pesticides impact honeybees, using honeybees as a proxy significantly underestimates the risk of pesticides to soil invertebrates and microorganisms and does not address the indirect effects that loss of soil life can have on bees and other organisms," the CBD said.

Soil health has gained new focus among farm organizations in recent years, and in its article, the CBD said a bucketful of healthy soil contains more microorganisms than there are people on Earth.

"This subterranean web of life is constantly working — filtering our water, preventing flooding, recycling nutrients, preventing disease outbreaks, and helping regulate the Earth's temperature," the CBD said.

Some organic agriculture groups endorsed the petition, such as the Northeast Organic Farming Association. For bigger groups tied to more industrial-type agriculture, the issue is more complicated.

Farm groups such as the National Corn Growers Association walk a fine line, touting conservation and healthy soil practices while endorsing the use of pesticides and herbicides. The NCGA has led an effort called the Soil Health Partnership, which promotes reduced tillage, cover crops and other practices but doesn't criticize pesticide use.

The Soil Health Partnership will be disbanded May 28, the group announced recently. It supported research and analysis, as well as a field staff in 16 states, all...

Dicamba-case filing deadline is end of week

Stephen Steed, Northwest Arkansas Democrat Gazette

<https://www.nwaonline.com/news/2021/may/23/dicamba-case-filing-deadline-is-end-of-week/>

Hundreds of Arkansas soybean producers are expected to file claims seeking proceeds from Bayer's \$300 million dicamba settlement when the 150-day claims period ends Friday.

Bayer agreed in June to settle class-action lawsuits filed by farmers in Arkansas and other states against Monsanto for alleged crop damage and yield reductions caused by off-target movement of the herbicide. Bayer bought Monsanto in 2018 for \$63 billion and assumed the St. Louis company's debts and liabilities, including the lawsuits.

Most of the dicamba lawsuits were merged into one as "multidistrict litigation" and until the settlement agreement, had been put before a single federal judge in St. Louis for pretrial motions and hearings.

Bayer set aside \$300 million to settle farmers' claims, and \$100 million for attorneys' fees and other administrative expenses incurred from the settlement program. The settlement agreement is for soybean damage incurred from 2015-20. BASF, another manufacturer of dicamba, joined Bayer in the settlement.

Paul Byrd, a Little Rock attorney who served on the court-appointed executive committee that negotiated with Bayer and BASF on the settlement, said last week that he has helped about 150 Arkansas farmers file claims. "It has been some pretty intensive work in my office and for farmers," Byrd said. "I really don't think I could have handled more cases."

Other Arkansas attorneys involved in the initial class-action lawsuits against Monsanto also are filing settlement claims for Arkansas farmers.

Records needed to document the damage include complaints filed with the state Plant Board (or agriculture regulators in other states), results of any laboratory tests and history of crop yields on each field. The yield data must be for the years dicamba damage, was sustained, years without damage, and for "benchmark fields" to set a baseline for the financial losses. Any time-stamped photographs or video of damaged plants could be provided as supporting evidence.

By acres planted, soybeans are the state's largest crop each year. Arkansas farmers planted about 2.8 million acres of soybeans in 2020. According to the 2017 Census of Agriculture, about 3,700 farms in Arkansas produce soybeans, with about 1,200 of those farms producing 1,000 or more acres. Forty-one farms routinely produce more than 5,000 acres of soybeans each year.

Byrd worked for farmers involved in Syngenta's \$1.5 billion settlement in 2018 of a nationwide class-action lawsuit over the company's genetically modified corn seed that was rejected by China, causing a loss of sales.

"That was a more streamlined, easier process for farmers," he said. "It was, 'did you raise corn?' in the affected years and, if you did, economists figured out a number to compensate you for your losses. In this [the dicamba settlement], it's yield loss, not a market loss. You have to prove your [dicamba] symptomology and prove your yield losses and show numbers for the non-damage years as well."

Byrd said it would be difficult but not impossible for a farmer to start filing a claim now and complete it by deadline. "It's a tough process and document-intensive," Byrd said. "If somebody were reading the Sunday paper about a [Friday] deadline, they better call somebody at 8 Monday morning and try to get something started. It's just a tedious process."

Farmers who suffered damage are wondering whether they'll be made whole. "I can't even begin to tell someone how much they'll get," Byrd said.

Epiq, a legal services firm in New York City with operations worldwide, has the contract to review claims and determine payouts to farmers based on a formula that includes damaged acres, yield loss, percentage of ownership and average prices of soybeans in the claimant's state. Epiq developed a website, at <https://dicambasoybeansettlement.com/> for questions and answers about...

EPA Gives Emergency Approval For Fungicide To Fight Leaf Rust In Hawaii

Zac Cadwalader, Sprudge

<https://sprudge.com/epa-gives-emergency-approval-for-fungicide-to-fight-leaf-rust-in-hawaii-178413.html>

Last week we took a bit of a deeper dive into what exactly is Kona coffee and how it came to be one of Hawaii's most well-known exports. (It's any arabica coffee grown in a specifically-designation region of Hawaii.) In it we discussed one of the existential threats to coffee growing in Kona and in Hawaii as a whole—and every coffee growing region in the world really—leaf rust. But per US News & World Report, there may be help in that fight just over the horizon, as the US Environmental Protection Agency has approved a fungicide for use on coffee trees to combat roya.

The fungus that causes leaf rust has been a scourge for coffee producers worldwide for nearly a decade now, but until recently had yet to have any impact on Hawaiian coffee growers. Then in October of last year, the first instances of the fungus were found on Maui and the Big Island, with Lanai and Oahu having their first confirmed cases in January of this year.

In March, the Hawaiian Department of Agriculture filed an emergency petition with the EPA on behalf of the state's coffee growers for use of Priaxor Xemium, a fungicide used for "controlling leafy vegetables, strawberries, tomatoes, soybeans, wheat, and other crops but was not labeled for specific use on coffee plants." The approval for the petition came through recently, and farmers are now able to use the fungicide for "a year or until its use on coffee plants is added to the product label by the EPA and its producer."

"Hawaii coffee growers now have an added method to combat the coffee leaf rust, which is extremely difficult to manage," Hawaii Board of Agriculture Chair Phyllis Shimabukuro-Geiser said. "Other efforts to minimize the damage and spread of coffee leaf rust include quarantines on the movement of coffee plants and associated material, the import of disease-resistant coffee plants and the development of integrated pest management strategies."

The use of Priaxor Xemium, though, "is not meant to be the magic silver bullet," Andrea Kawabata of the Department of Tropical Plant and Soil Sciences Office stated in an informational webinar with farmers, but it meant more to protect against the spread of the fungus and further roya development. Nonetheless, the fungicide may prove beneficial in Hawaii's nascent fight against leaf rust, especially as new, more aggressive variants are being discovered around the world.

Yvette T. Collazo Steps Down as Director of EPA's Office of Pollution Prevention and Toxics

Lynn Bergeson and Carla Hutton, Bergeson & Campbell Blogs

<http://www.tscablog.com/entry/yvette-t.-collazo-steps-down-as-director-of-epas-office-of-pollution-preven>

Effective May 21, 2021, Yvette T. Collazo has resigned as the Director of the U.S. Environmental Protection Agency's (EPA) Office of Pollution Prevention and Toxics (OPPT). Collazo began as OPPT Director in March 2020. During her tenure, OPPT's accomplishments include:

Publishing final risk evaluations for the first ten chemicals reviewed under the amended Toxic Substances Control Act (TSCA) and initiating the risk evaluation process for the next 20 high-priority chemicals;
Beginning risk management activities for the first ten chemicals, including public engagement and consultations with tribal and environmental justice communities;
Issuing final rules to reduce exposures to five persistent, bioaccumulative, and toxic (PBT) chemicals;
Proposing revisions to the TSCA fees rule;
Increasing transparency by conducting and updating data on TSCA Confidential Business Information reviews, publishing updated 2016 Chemical Data Reporting (CDR) information, updating the TSCA Inventory, and making additional information on new chemical submissions available in ChemView;
Recognizing significant stakeholder achievements through the 2020 Safer Choice and Green Chemistry Awards;
Re-organizing OPPT to align new chemicals, existing chemicals, confidential information/transparency, and "forward-looking" data collection functions structurally; and
Establishing an Office for Project Management and Operations that is intended to manage effectively and efficiently the TSCA Program.

More information on these developments is available on our website in our TSCA memoranda.

As Bayer awaits ruling on its \$2 billion glyphosate settlement proposal, judge floats idea of adding controversial safety warning label

Tom Hals, Genetic Literacy Project (Reuters)

<https://geneticliteracyproject.org/2021/05/24/as-bayer-awaits-ruling-on-its-2-billion-glyphosate-settlement-proposal-judge-floats-idea-of-adding-controversial-safety-warning-label/>

A U.S. judge suggested on [May 19] that Bayer include a warning label on Roundup as part of a proposed \$2 billion settlement to resolve future claims that the top-selling weedkiller causes cancer.

Bayer asked U.S. District Judge Vince Chhabria in San Francisco to give preliminary approval for the settlement deal.

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"For years I've been wondering why Monsanto wouldn't do that voluntarily to protect itself," said Chhabria, of a warning label. He said a label would prevent further lawsuits and free up money to create a better offer for people already exposed.

He even suggested wording for a label and tweaked it as he got feedback from Bayer's lawyer.

William Hoffman, a lawyer for Bayer, said he doubted the suggested label would protect against future lawsuits.

"We appreciate the court's direction," Bayer said in a statement on [May 20] "It is common for courts to request some adjustments to class settlement agreements like this and we are confident that, working with class counsel, we will be able to address the matters raised by the Court. We remain committed to settling the Roundup litigation."

The agreement would pause all litigation for four years and prevent class members from seeking punitive damages if they refuse compensation and ultimately decide to sue.

FDA Knows This Pesticide Causes Brain Damage in Kids — So Why Isn't It Banned?

Chlorpyrifos, a widely used pesticide, is strongly linked to brain damage in children. These and other health concerns have led several countries and some U.S. states to ban chlorpyrifos, but the chemical is still allowed on food crops in the U.S. after successful lobbying by its manufacturer.

Chlorpyrifos in food

Chlorpyrifos insecticides were introduced by Dow Chemical in 1965 and have been used widely in agricultural settings. Commonly known as the active ingredient in the brand names Dursban and Lorsban, chlorpyrifos is an organophosphate insecticide, acaricide and miticide used primarily to control foliage and soil-borne insect pests on a variety of food and feed crops. Products come in liquid form as well as granules, powders and water-soluble packets, and may be applied by either ground or aerial equipment.

Chlorpyrifos is used on a wide variety of crops including apples, oranges, strawberries, corn, wheat, citrus and other foods families and their children eat daily. USDA's Pesticide Data Program found chlorpyrifos residue on citrus and melons even after being washed and peeled. By volume, chlorpyrifos is most used on corn and soybeans, with over a million pounds applied annually to each crop. The chemical is not allowed on organic crops.

Non-agricultural uses include golf courses, turf, green houses and utilities.

Human health concerns

The American Academy of Pediatrics, which represents more than 66,000 pediatricians and pediatric surgeons, has warned that continued use of chlorpyrifos puts developing fetuses, infants, children and pregnant women at great risk.

Scientists have found that prenatal exposures to chlorpyrifos are associated with lower birth weight, reduced IQ, the loss of working memory, attention disorders and delayed motor development. Key studies are listed below.

See these comments to regulators from the Endocrine Society citing "ample evidence that chlorpyrifos has extensive effects on neurological and endocrine systems with demonstrated evidence of harm to humans and wildlife."

Chlorpyrifos is also linked to acute pesticide poisoning and can cause convulsions, respiratory paralysis and sometimes, death.

CHD Calls on FDA to Take COVID Vaccines Off the Market - Submit a Comment
FDA says food and drinking water exposures unsafe

Chlorpyrifos is so toxic that the European Food Safety Authority banned sales of the chemical as of January 2020, finding that there is no safe exposure level. Some U.S. states have also banned chlorpyrifos from farming use, including California and Hawaii.

The U.S. Environmental Protection Agency (EPA) reached agreement with Dow Chemical in 2000 to phase out all residential uses of chlorpyrifos because of scientific research showing the chemical is dangerous to the developing brains of babies and young children. It was banned from use around schools in 2012.

In October 2015, the EPA said it planned to revoke all food residue tolerances for chlorpyrifos, meaning it would no longer be legal to use it in agriculture. The agency said "expected residues of chlorpyrifos on food crops exceed the safety standard under the Federal Food, Drug and Cosmetic Act." The move came in response to a petition for a ban from the Natural Resources Defense Council and Pesticide Action Network.

In November 2016, the EPA released a revised human health risk assessment for chlorpyrifos confirming it was unsafe to

allow the chemical to continue in use in agriculture. Among other things, the EPA said all food and drinking water exposures were unsafe, especially to children 1-2 years old. The EPA said the ban would take place in 2017.

Trump EPA delays ban

Following the election of Donald Trump as President of the United States, the proposed chlorpyrifos ban was delayed. In March 2017, in one of his first formal actions as the nation's top environmental official, EPA Administrator Scott Pruitt rejected the petition by environmental groups and said the ban on chlorpyrifos would not go...

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